

REMARKS

Reconsideration of this application in light of the above amendments is courteously solicited.

Initially the undersigned acknowledges the Examiner's allowance of previously submitted dependent claim 4. Independent claim 1 has been amended so as to include the subject matter of indicated allowable dependent claim 4. Accordingly, it is submitted that claims 1-3 and 5 as amended are in condition for allowance.

Applicant has added new independent claims 6 and 7. It is respectfully submitted that claims 6 and 7 patentably define over the cited prior art for the following reasons.

The present invention is drawn to an acoustical headset wherein a button set for actuating an electronic controller unit is located on an auditory cup in an ergonomic manner so as to provide the user with a "feel at home" hearing environment. In accordance with the present invention, when the user puts his hand on the ear cup, his fingers automatically come into correct position for allowing him to conveniently operate the button sets which actuate the electronic control unit. Such an arrangement, as claimed in new independent claims 6 and 7, is not shown or disclosed by the prior art.

The Examiner in rejecting the previously submitted claims has applied U.S. Patent 5,113,428 as the primary reference in view of U.S. Patent 6,091,832 as the secondary reference under 35 U.S.C. 103. The Examiner states in his rejection that the '428 patent "includes a plurality of associated buttons arranged in groups (101, 103, 107, 109, 111 and 113 in one group and 121, 122 in another group)". The Examiner is incorrect in his reading of the '428 patent. Items 121 and 122 are not buttons but rather connections for allowing the batteries of the portable unit to be charged. There is absolutely no suggestion in the '428 patent that the buttons 101-111 and the key pad 50 be located in separate recesses in accordance with the claimed features of new independent claims 6 and 7. In accordance with the present invention, buttons 18 and 18' form one group with both buttons located in a common depression. Likewise, buttons 19 and 19' form one group having the two buttons located in a common and separate recess. Such an arrangement is not at all shown by the '428 patent. The secondary reference, namely, the '822 patent, does not cure the deficiency noted above with regard to the primary reference.

In light of the foregoing, it is submitted that new independent claims 6 and 7 patentably define over the art

of record and an early indication of same is respectfully requested.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

It is submitted that the claims as amended herein patentably define over the art relied on by the Examiner and early allowance of same is courteously solicited.


If any fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231

on July 30, 2001
(Date of Deposit)
Rachel Piscitelli
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July 30, 2001
Date of Signature

Respectfully submitted,

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Version with markings to show changes made to claims

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1. (Amended) An arrangement in hearing protection in the form of an acoustic headset, comprising a first auditory cup (10), a second auditory cup (11) and a stirrup or headband (12) interconnecting the auditory cups (10, 11), a microphone (13) being provided for receiving ambient sound, and an electronic control unit (15) actuable by a button set (14) being provided for transmitting sound from the microphone (13) and a radio unit (16) by the intermediary of loudspeakers (17) in the auditory cups (10, 11), characterized in that the button set (14) comprises a plurality of associated buttons (18, 18'; 19, 19'; 20, 20'; 21; 22) arranged in groups; and that each group of buttons, for activation by means of the fingers of the wearer, is disposed in a separate depression or recess (23, 24, 25, 26) in the first auditory cup (10) wherein the depressions or recesses (23, 24, 25, 26) are disposed in an arched surface on the first auditory cup (10), and wherein at least the depressions or recesses displaying a plurality of buttons, together with the buttons disposed therein, are disposed along a curved path adapted to the length of the wearer's fingers.